

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

|                            |   |                        |
|----------------------------|---|------------------------|
| KEVIN E. WILSON,           | ) |                        |
|                            | ) |                        |
| Plaintiff,                 | ) |                        |
|                            | ) |                        |
| v.                         | ) | C.A. No. 13-1390 (LPS) |
|                            | ) |                        |
| CITY OF WILMINGTON and     | ) |                        |
| DEPARTMENT OF LICENSES AND | ) |                        |
| INSPECTIONS,               | ) |                        |
|                            | ) |                        |
| Defendants.                | ) |                        |

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION  
TO ATTEND PLAINTIFF'S DEPOSITION**

1. After conferring with Plaintiff, on September 5, 2014, Defendants scheduled Plaintiff's deposition for October 10, 2014. Defendants filed a Notice of Deposition.<sup>1</sup> (D.I. 41)

2. On September 11, 2014, Plaintiff informed counsel for Defendants of his intention to have two non-parties to the litigation be present for his deposition, Ollie Wilson (believed to be Plaintiff's spouse) and Raymond Donahue (a former City employee). Moreover, Plaintiff's letter dated September 11, 2014 is attached hereto as Exhibit A.

3. On September 16, 2015, counsel for Defendants responded by letter to Plaintiff (with a copy filed with the Court) informing Plaintiff that his request to bring non-parties into his deposition was denied. Defendants' letter dated September 16, 2014 is attached hereto as Exhibit B.

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<sup>1</sup> Plaintiff requested that the discovery deadline be extended by 60 days, from October 14, 2014 to December 15, 2014. Defendants do not object to this request. Plaintiff filed a Motion to Extend Discovery. (D.I. 51) Plaintiff's October 10, 2014, deposition has been postponed. A new date has not yet been scheduled.

4. On September 30, 2014, Plaintiff filed a Motion to Attend Plaintiff's Deposition.  
(D.I. 53) This serves as Defendants' response thereto.

5. Local Rule 30.3 directly addresses the issue at hand. Pursuant to Local Rule 30.3, absent agreement between the parties or Court approval, only the following may attend a deposition:


- (a) The deponent;
- (b) Counsel for any party and members and employees of their firms;
- (c) A party who is a natural person;
- (d) An individual who has been designated by counsel to represent a party that is not a natural person;
- (e) Counsel for the deponent; and
- (f) Any consultant or expert designated by counsel for any party.

6. Notably absent from the approved list of attendees in Rule 30.3, is the spouse of party to the litigation, who is not a party herself, and a former colleague of a party to the litigation.

7. Moreover, Plaintiff has not presented any legitimate reason to have the non-party individuals present.

WHEREFORE, for the reasons stated above, Defendants respectfully request the Court deny Plaintiff's Motion to allow two non-parties to attend his deposition.

CITY OF WILMINGTON LAW DEPARTMENT



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Tara M. DiRocco (No. 4699)  
Assistant City Solicitor  
Louis L. Redding City/County Building  
800 N. French Street, 9<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 576-2175  
[tmdirocco@wilmingtonde.gov](mailto:tmdirocco@wilmingtonde.gov)  
*Attorney for Defendants City of Wilmington and  
Department of Licenses and Inspections*

Dated: October 1, 2014

W0075230.

# EXHIBIT A

SEP 16 2014

September 11, 2014

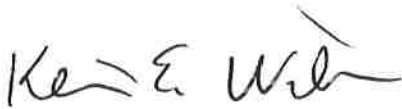
***Kevin E. Wilson Plaintiff, v City of Wilmington, Department of Licenses and Inspections, Defendant CA No. 13-1390-LPS***

Ms. DiRocco,

I am requesting that the following individuals be cleared to accompany me to the Deposition (for Plaintiff) on October 10, 2014 at 10:00AM, at 800 N. French St. Wilmington, DE 19801 in the Law Department on the 9th floor. Mrs. Ollie Wilson and Mr. Raymond Donahue, in particular Mr. Donahue make sure he is cleared to enter the City County Building on that day. Should this not be possible you will want to change the location of the Deposition to a neutral location to accommodate attendees.

Please let me know of these approvals as soon as possible.

Sincerely,



Kevin E. Wilson  
P. O. Box 2553  
Suffolk, VA 23432  
302-494-9377

**I certify this notice was mailed to the Defendant via US Mail on September 11, 2014**  
**Law Dept. 9<sup>th</sup> floor**  
**Attn.. Ms. Tara DiRocco**  
**800 N. French St.**  
**Wilmington, DE 19801**

Cc: court Clerk

# **EXHIBIT B**

DENNIS P. WILLIAMS  
MAYOR

City of Wilmington  
Delaware



LOUIS L. REDDING - CITY/COUNTY BUILDING  
800 FRENCH STREET  
WILMINGTON, DELAWARE  
19801-3537  
WWW.WILMINGTONDE.GOV

Law Department  
(302) 576-2175

September 16, 2014

Kevin E. Wilson  
120 Eagle Lane  
P.O. Box 2553  
Suffolk, VA 23432

RE: Wilson v. City of Wilmington, et al. (C.A. No. 13-1390 (LPS))

Dear Mr. Wilson:

I write in response to your correspondence dated September 11, 2014 in which you state your intention to have two non-parties to the litigation, Ollie Wilson and Raymond Donahue, attend your deposition currently scheduled for October 10, 2014 at 10:00 a.m. in my office. As we discussed today, you are not permitted to bring non-parties to observe your deposition. Only parties to the litigation and their counsel are allowed to attend depositions. Any guests you bring with you will not be allowed into the conference room where the deposition is being held.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Tara M. DiRocco", is written over a faint, circular official stamp.

Tara M. DiRocco (No. 4699)  
Assistant City Solicitor

cc: Clerk of the Court  
TMD

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**KEVIN E. WILSON,**

Plaintiff,

v.

**CITY OF WILMINGTON,  
DEPARTMENT OF LICENSES AND  
INSPECTIONS,**

Defendants.

C.A. No. 13-1390 (LPS)

**CERTIFICATE OF SERVICE**

I, Tara M. DiRocco, Esquire, hereby certify that on this 1<sup>st</sup> day of October, 2014, I filed and electronically served Defendants Response to Plaintiff's Motion to Attend Plaintiff's Deposition with the Clerk of Court using CM/ECF which will send notification of such filing(s) that this document is available for viewing and downloading from CM/ECF; I also mailed via U.S. Mail, postage pre-paid one copy to the following:

Mr. Kevin E. Wilson  
P.O. Box 2553  
Suffolk, VA 23432

Mr. Kevin E. Wilson  
120 Eagle Lane  
P.O. Box 2553  
Suffolk, VA 23432

CITY OF WILMINGTON LAW DEPARTMENT

/s/ Tara M. DiRocco  
Tara M. DiRocco (No. 4699)  
Assistant City Solicitor  
Louis L. Redding City/County Building  
800 N. French Street, 9<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 576-2175  
Attorney for Defendant